

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

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UNITED STATES OF AMERICA, : Criminal Action No.:
: 1:22-cr-16
versus :
: Tuesday, May 3, 2022
KODIE RICHARDS, :
:
Defendant. :
-----x

The above-entitled change of plea hearing was heard
before the Honorable Leonie M. Brinkema, United States
District Judge. This proceeding commenced at 9:30 a.m.

A P P E A R A N C E S:

FOR THE GOVERNMENT: NATASHA SMALKY, ESQUIRE
OFFICE OF THE UNITED STATES ATTORNEY
2100 Jamieson Avenue
Alexandria, Virginia 22314
(703) 299-3700

FOR THE DEFENDANT: BRUCE COOPER, ESQUIRE
LAW OFFICE OF BRUCE M. COOPER
717 D Street, NW
Suite 300
Washington, D.C. 20004
(202) 628-8494

COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

P R O C E E D I N G S

THE DEPUTY CLERK: Criminal Case 22-16, United States of America versus Kodie Matthew Richards.

Would counsel please note their appearances for the record.

THE COURT: Give us a second to get the defendant in here.

MS. SMALKY: Good morning. Natasha Smalky for the United States.

THE COURT: Ms. Smalky, are there any changes to the paperwork from what was sent to chambers?

MR. COOPER: Your Honor, if I can address the Court on that.

THE COURT: Counsel, your appearance, please.

MR. COOPER: I'm sorry, Your Honor. Bruce Cooper for Mr. Richards. I apologize, Your Honor.

Your Honor, I apologize to the Court and to the Government. I should have let the Court know sooner. My client is going to plead to the indictment. We are agreeing to the statement of facts proffered by the Government.

THE COURT: You don't want a plea agreement?

MR. COOPER: That's correct, Your Honor.

THE COURT: All right. That's fine. That's your option, of course.

MR. COOPER: I took the advice of someone not to

1 alert the Court earlier than today, and it was poor advice I
2 believe. I should have alerted the Court, and I apologize
3 to the Government. I should have alerted them as well.

4 THE COURT: That's all right. We'll take the
5 plea.

6 All right. Are you all ready then?

7 MR. COOPER: Yes, Your Honor.

8 THE COURT: Has the statement of facts been
9 signed?

10 MR. COOPER: Yes, Your Honor. The copy is right
11 here.

12 MS. SMALKY: And, Your Honor, for the statement of
13 facts, in order to clarify that the statement of facts is to
14 the -- is for a pleading to the indictment instead of just
15 as to Count 1, as it was originally written. There was one
16 edit that I've crossed out in paragraph 10, and it should be
17 marked on that copy as well.

18 THE COURT: It is. It is.

19 MS. SMALKY: Okay. So simply to strike that
20 language.

21 THE COURT: That's fine.

22 All right. Mr. Richards, come up to the lectern.

23 THE DEFENDANT: Good morning.

24 THE COURT: Good morning.

25 THE DEPUTY CLERK: Please raise your right hand.

1 (Defendant sworn in open court.)

2 THE DEPUTY CLERK: Thank you.

3 THE COURT: All right. Mr. Richards, you have
4 just taken a promise to tell the truth in answering all of
5 the Court's questions. That means that if you should lie in
6 answering any question, the Government could prosecute you
7 for a new and separate crime called perjury; do you
8 understand that?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: For the record, what is your full
11 name?

12 THE DEFENDANT: Kodie Matthew Richards.

13 THE COURT: How old are you?

14 THE DEFENDANT: 28.

15 THE COURT: How many years of schooling had you
16 finished?

17 THE DEFENDANT: I graduated high school.

18 THE COURT: Do you have any problem reading,
19 writing, understanding or speaking English?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: Are you a United States citizen?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Are you presently on probation, parole
24 or supervised release from any other criminal case?

25 THE DEFENDANT: I was on probation when I was

1 arrested back in October.

2 THE COURT: And probation from what jurisdiction?

3 THE DEFENDANT: Alexandria.

4 THE COURT: For what charge?

5 THE DEFENDANT: It was a possession charge.

6 THE COURT: All right. And what kind of back-up
7 time do you have with the Alexandria authorities?

8 THE DEFENDANT: I believe it was a year --

9 THE COURT: All right. And Mr. --

10 THE DEFENDANT: -- of probation.

11 THE COURT: Mr. Cooper, did you discuss with your
12 client the potential impact that a conviction in this case
13 might have on his state supervision?

14 MR. COOPER: I did, Your Honor.

15 THE COURT: Do you understand that Alexandria may
16 decide to revoke that probation because you were not of
17 uniform good behavior while under court supervision?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: So you could get another year in
20 Alexandria besides whatever sentence you get from this
21 Court; do you understand that?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: All right. Are you at the present
24 time under the care of a doctor for any physical or mental
25 condition?

1 THE DEFENDANT: I see the doctor in Alexandria for
2 just sleeping problems and anxiety problems.

3 THE COURT: And -- I'm sorry, and?

4 THE DEFENDANT: And anxiety.

5 THE COURT: Anxiety, all right.

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Are you taking any medication for
8 either of those two conditions?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: What are you taking?

11 THE DEFENDANT: Trazodone.

12 THE COURT: And that's to help you sleep?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: All right. Did you have it last
15 night?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Did you sleep well last night?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: All right. Other than those
20 medications, within the last 24 hours, have you taken any
21 kind of medication whether by prescription or
22 over-the-counter like an aspirin or an Advil?

23 THE DEFENDANT: No, ma'am.

24 THE COURT: Are you at this time under the
25 influence of any alcohol or drugs?

1 THE DEFENDANT: No, ma'am.

2 THE COURT: All right. It's my understanding
3 there was a proposed plea agreement or two plea agreements,
4 and that you have chosen not to enter into either of them;
5 is that correct?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: All right. And my understanding is
8 that you are prepared to enter a guilty plea to the two
9 counts that are sitting in the indictment; is that right?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: All right. Now, Count 1 charges you
12 under Section 371 of the U.S. code with being a member of a
13 conspiracy. The basis of the conspiracy was basically to
14 obtain a firearm using illegal means basically; do you
15 understand that?

16 THE DEFENDANT: Yes, ma'am. Yes, ma'am.

17 THE COURT: And Count 2 alleges that you were
18 aiding and abetting in the making of a false statement in
19 connection with the acquisition of a firearm.

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: All right. Now, each of those counts
22 I believe has the same penalty provision.

23 Is that correct, Ms. Smalky?

24 MS. SMALKY: Your Honor, the second count has a
25 ten-year maximum; the first count has a five year.

1 THE COURT: What about the supervised release?

2 MS. SMALKY: I believe both are three years.

3 MR. COOPER: That's correct, Your Honor.

4 THE COURT: All right. So each of these two
5 counts is a felony, and each exposes you to the following
6 sentence. Count 1, which is the conspiracy count, exposes
7 you to up to five years of imprisonment followed by up to
8 three years of supervised release. You could be required to
9 pay a fine of up to \$250,000, and there's an automatic \$100
10 special assessment; do you understand that?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: For the second count, which is the
13 aiding and abetting of the firearm illegally -- or making a
14 false statement to a firearms dealer in connection to the
15 purchase of a firearm, you're looking up to ten years of
16 imprisonment followed by up to three years of supervised
17 release, another fine of up to \$250,000, and a \$100 special
18 assessment; do you understand that?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Now, the special assessments are
21 cumulative. That means you're looking at \$200 total of
22 special assessments; do you understand that?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: All right. To that first count, that
25 is the conspiracy count, how do you want to plead?

1 THE DEFENDANT: Guilty.

2 THE COURT: And to the second count, that is the
3 false statement in connection of the acquisition of a
4 firearm, how do you want to plead?

5 THE DEFENDANT: Guilty.

6 THE COURT: Now, before the Court accepts either
7 of those two pleas, I'm going to ask you a series of
8 questions about your decision to plead guilty, as well as
9 the facts of the case.

10 At any point this morning if you decide that you
11 want to change your mind and enter a not guilty plea as to
12 either one or both of those charges, then we will allow you
13 to do so, and this case is set for trial in the very near
14 future and your case would just go to trial; do you
15 understand that?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Do you believe that anybody has
18 promised or suggested to you that by pleading guilty rather
19 than going to trial you will get a lighter sentence or more
20 favorable treatment by the Court?

21 THE DEFENDANT: No, ma'am.

22 THE COURT: Has anyone put any force or pressure
23 on you this morning to make this decision to not accept the
24 plea agreements but instead to plead to the indictment?

25 THE DEFENDANT: No, ma'am.

1 THE COURT: All right. Now, I want to make sure
2 you understand in the Federal system, parole does not exist.
3 And that means whatever term of imprisonment that you
4 receive in this case you will serve entirely; do you
5 understand that?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: When the prison portion of the
8 sentence has been completed, that's when the supervised
9 release portion will go into effect. When a person is on
10 supervised release, he's under the control of a Federal
11 probation officer, and there may be various conditions he
12 has to follow. You may have to avoid certain people, you
13 may have to go for drug testing. I can't tell you those
14 conditions yet because I haven't seen the presentence
15 report.

16 The key fact you do have to understand is that if
17 you violate any condition of supervision, you can be brought
18 back to court, and if the violation is established, then you
19 can be sent back to prison for as long as the period of
20 supervised release, which could be as much as three years in
21 this case; do you understand that?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Now, when it comes time for
24 sentencing, the Court will be looking at two sources of law.
25 First, the Federal Sentencing Guidelines, and second you'll

1 be looking at the 3553(a) factors.

2 Now, under the guidelines, the Court has to make
3 two decisions before the guidelines can be calculated.

4 First, we have to determine your criminal history. Criminal
5 history is divided into six categories with each category
6 getting a number. A Number 1 criminal history would go to
7 someone who's never been in trouble with the law or has a
8 very minor record. And then as convictions, probation
9 violations and other issues occur, the score goes up, with a
10 level six going to the most serious offenders; do you
11 understand that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Now, Mr. Cooper, I assume you've done
14 some preliminary evaluation of your client's criminal
15 history?

16 MR. COOPER: I have, Your Honor, and we discussed
17 it and various options that he had, including cooperation
18 versus non-cooperation and the points. And we've had a long
19 discussion about it, Your Honor.

20 THE COURT: What do you think your client's
21 criminal history will be, since this offense may have
22 occurred while he was on probation? He'll pick up extra
23 points for that.

24 MR. COOPER: Court's indulgence.

25 Your Honor, I think his base offense level is

1 around 20, and depending on how his score is, I believe he's
2 a Group 3. It may be pushed into a Group 4. It sort of
3 depends.

4 THE COURT: All right. And I assume from your
5 discussion you've spent a fair amount of time with
6 Mr. Richards talking about how the guidelines operate?

7 MR. COOPER: Yes, Your Honor.

8 THE COURT: Mr. Richards, just so you're crystal
9 clear. So the Court determines the criminal history number,
10 and it's based, as I said, upon convictions. You'd
11 definitely pick up extra points if you commit an offense
12 while you're on supervision, and there are other issues that
13 can affect the score. Then we look at the offense level.
14 Every Federal crime has a number given to it by the
15 Sentencing Commission and then depending on the facts of the
16 case, that number can go up or down.

17 A factor that can help the number go down is full
18 acceptance of responsibility. In that case, two levels can
19 be reduced. I think under your proposed plea agreement, the
20 Government was going to offer you a third level reduction if
21 you fully cooperated and the offense was at least a 16.

22 But that plea agreement does not apply at this
23 point. They could still make that motion, but they're not
24 required to make it in any respect; do you understand that?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: But at the end of the day, the Court
2 will make the final decision as to your criminal history and
3 the offense level, and then those two numbers are put on a
4 one-page chart called a Sentencing Guideline Table, and that
5 will establish an advisory guideline range.

6 Now, the Court has to look at that range and
7 consider it, but the Court is not required to sentence
8 within it. And if the Court has good reasons, it can
9 sentence above the range or below the range. The only limit
10 on the Court's sentencing power is we cannot sentence you to
11 more than the statutory maximums, which, for Count 1, is
12 five years of imprisonment; and for Count 2, it would be
13 ten years; do you understand that?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: In addition to the guidelines, the
16 Court must also look at the 3553(a) factors. So that
17 requires us to look in detail at your entire background,
18 your family situation, your work history, any health issues
19 that might affect your conduct. We need to look at the
20 actual conduct that you engaged in in these two offenses,
21 the need to deter you, that is to prevent you, from engaging
22 in other criminal activity or repeating this activity, and
23 the need to send out messages, especially for this type of
24 crime where people think that they can violate the laws
25 concerning the obtaining of firearms. So there's a lot of

1 factors that go into the sentencing decision; do you
2 understand that?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Now, from what Mr. Cooper has said, it
5 sounds like you've spent a fair amount of time talking with
6 him about the possible sentence you might get.

7 Have you had those types of discussions?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: And it's possible, because it looks as
10 though at one point you might have been thinking about
11 cooperating with the Government, that you may have been
12 talking with the agents or with the prosecutors about the
13 case, and they may have given you some ideas about your
14 sentence. Has that happened?

15 THE DEFENDANT: I just -- mainly my lawyer, Your
16 Honor.

17 THE COURT: All right. Well, what I want to make
18 sure you understand is no matter what Mr. Cooper may have
19 said to you about what he thinks your guidelines will be or
20 what type of sentence you might get or if any of the
21 co-defendants in this case or anyone else has given you some
22 ideas about what type of sentence you might get, you need to
23 understand that those conversations are not binding on the
24 Court in any respect. And so if at the time the Court
25 imposes a sentence on you that's different from what you

1 might be expecting or hoping for, that would not give you a
2 basis to withdraw your guilty pleas; do you understand that?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Now, do you understand that under the
5 law, a person can normally appeal the sentence imposed on
6 him, and you will still have that right to appeal whatever
7 sentence you receive.

8 Defendants normally have a right to appeal their
9 convictions, but when a person is found guilty based upon a
10 guilty plea, you essentially pretty much give up any of the
11 appeal rights that you might have; do you understand that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Have you had enough time to explain
14 everything you know about this case to Mr. Cooper?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Has he discussed with you the nature
17 of the charge -- of these two charges and any ways in which
18 you could defend yourself against the charges if you went to
19 trial?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: And, Mr. Cooper, did you get discovery
22 in this case?

23 MR. COOPER: I did, Your Honor.

24 THE COURT: Do you feel it was fairly thorough?

25 MR. COOPER: Very thorough.

1 THE COURT: And were you able to fully discuss
2 that discovery with Mr. Richards?

3 MR. COOPER: Yes, Your Honor.

4 THE COURT: All right. And did you keep
5 Mr. Richards fully advised about your plea bargaining
6 efforts on his behalf?

7 MR. COOPER: Yes.

8 THE COURT: Now, Mr. Richards, Number 1, are you
9 fully satisfied with the way in which Mr. Cooper tried to
10 work a plea out for you in this case?

11 THE DEFENDANT: I am, Your Honor.

12 THE COURT: And are you completely satisfied with
13 the way in which Mr. Cooper has represented you throughout
14 this case?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Now, do you understand that at this
17 time, you still have a right to change your mind and
18 withdraw either one or both of your guilty pleas, in which
19 case this case would go to trial, as I said, within the next
20 couple of weeks; do you understand that?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: At trial, the burden would be on the
23 Government to prove you guilty of each offense, and that is
24 the burden of proof beyond a reasonable doubt. At trial,
25 you would have absolutely no obligation to put on any

1 evidence whatsoever because you would start the trial with a
2 presumption of innocence; do you understand that?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: But in order for the Government to
5 convict you of Count 1, which is the conspiracy count,
6 they'd have to prove each and every one of the following
7 facts beyond a reasonable doubt.

8 They would, first of all, have to prove that there
9 was, in fact, an agreement between at least two people. And
10 they've identified three members of this conspiracy, Stephen
11 Amir Derri, yourself, and Brittani Agee. So that's the
12 conspiracy they've alleged.

13 And a conspiracy is basically an agreement between
14 two or more people to do something the law forbids. So
15 they, first of all, have to show that during this relatively
16 short ten-day time period, that is March 15 through March 25
17 of 2021, there was an agreement among the three of you.

18 Secondly, they have to prove that the purpose of
19 the agreement was to obtain a Glock 21 .45 caliber
20 semiautomatic pistol from a licensed firearm dealer.

21 Then they would have to prove that during the
22 course of that conspiracy, at least one member of the
23 conspiracy knowingly made or aided and abetted in the making
24 of a materially false statement. I'm sorry. One of the
25 members of the conspiracy made a false statement about

1 the -- that was material to the purchase of that firearm by
2 putting false information on a Form 4473, which is the
3 required form for getting a firearm; do you understand that?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: They have to prove beyond a reasonable
6 doubt that any -- that at least one act in furtherance of
7 this conspiracy occurred in the Eastern District of
8 Virginia; do you understand that?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: And as I recall, the firearm dealer
11 was in Virginia.

12 And, lastly, they have to prove that your
13 involvement in the conspiracy was done knowingly and
14 intentionally and not by an accident or mistake or other
15 innocent reason; do you understand that?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: And in the indictment, they listed
18 several overt acts from paragraph 6 through paragraph 15 of
19 the indictment. And with a Section 371 conspiracy, the
20 Government must prove beyond a reasonable doubt that at
21 least one of those overt acts was committed by at least one
22 of the members of the conspiracy. It doesn't have to be
23 you, but it would have to be at least one of the members of
24 the conspiracy; do you understand that?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: So that's what they would have to
2 prove in order to convict you of Count 1.

3 And then with Count 2, they would have to prove
4 that during that same time period that you aided and abetted
5 the making of the false or fictitious statement in the
6 purchase of that firearm. That's essentially what they
7 would have to prove; do you understand that?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: And again, they would have to prove
10 that you knowingly and intentionally were a participant in
11 those activities; do you understand that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Now, if you pled not guilty and went
14 to trial, you would have a series of rights and protections
15 at trial that you're essentially giving up by pleading
16 guilty. First, you can see all the Government's witnesses
17 and evidence and have it tested through the questions of
18 Mr. Cooper; do you understand that?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: You could ask the Court for help in
21 getting subpoenas that would require other witnesses and/or
22 physical evidence to be brought to the courthouse so you
23 could use that in your defense at trial; do you understand
24 that?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: You could testify as a witness at
2 trial; do you understand that?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: You could also invoke your Fifth
5 Amendment right to remain silent, and if you chose not to
6 testify, your inference of guilt could not be drawn from
7 your silence; do you understand that?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Now, you chose to have a jury trial
10 when you were arraigned, and that means you would pull 12
11 people together randomly to decide your case. The other way
12 in which a case can be tried is through a judge alone, which
13 we would call a bench trial. But in either type of trial,
14 the same burden is on the prosecution, and that is you could
15 not be found guilty unless the Government proved you guilty
16 beyond a reasonable doubt. And the fact that you might be
17 found guilty beyond a reasonable doubt is as to one count
18 doesn't necessarily mean you would have been found guilty of
19 the second count. So each count would be evaluated
20 separately by the trier of fact; do you understand that?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And in the case of the jury trial, in
23 order for the jury to return a verdict, all 12 jurors must
24 agree. That means if just one juror has a reasonable doubt
25 about your guilt, that jury could not convict you. It would

1 be what we call a hung jury, we would have to declare a
2 mistrial, and then you would have a right to a new trial
3 with a new jury; do you understand that?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Now, if you continued with a not
6 guilty plea, Mr. Cooper could try to attack the
7 prosecution's case. I can't recall if any motions were
8 filed in this case pretrial, but certainly during the trial
9 itself, he could attack certain pieces of evidence that the
10 Government might try to bring in. He could try to argue
11 that any confessions or statements that you made should not
12 come in because you didn't get Miranda warnings or there
13 were other problems. I don't know what, if any, defenses
14 you might have, but you need to understand that when a
15 person pleads guilty, he gives up every attack on the
16 prosecution's case except for an attack on the jurisdiction
17 of the Court; do you understand that?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: And, lastly, if you pled not guilty
20 and you went to trial and you were found guilty at trial,
21 you could appeal that finding of guilt to a higher-level
22 court.

23 Do you understand that because of the way the law
24 is structured by pleading guilty, you're giving up your
25 right to appeal your convictions?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: All right. Do you believe that
3 anybody -- and I'll just repeat this.

4 Do you believe that anybody has promised or
5 suggested to you that by pleading guilty rather than going
6 to trial you will get a lighter sentence or more favorable
7 treatment by the Court?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Has anyone put any force or pressure
10 on you to make your decision today to plead guilty?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Has anyone put any force or pressure
13 on you today to reject the plea agreements that were offered
14 to you by the Government?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: All right. The last thing we need to
17 look at then is the statement of facts which has been filed
18 in court. And the first thing I want to make sure is I see
19 on page 4 it appears to be your signature and today's date.

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Did you, in fact, sign the statement
22 of facts?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And before you signed the statement of
25 facts, did you carefully read over the 11 numbered

1 paragraphs above your signature?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: And do you understand that by signing
4 the statement of facts, you've done two things. One, you
5 are admitting to the truth of everything in those 11
6 paragraphs; and second, you are admitting that if the case
7 went to trial, the Government could prove all those facts
8 beyond a reasonable doubt; do you understand that?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: All right. So as I understand it, you
11 do agree that between March 15 and March 25 of 2021 that you
12 knowingly and intentionally conspired with Stephen Amir
13 Derri and Brittani Sabrina Agee in connection with the
14 purchase of a firearm; is that correct?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: And that you knew that a false and
17 fictitious written statement was going to be made to the
18 Vienna Arsenal, which is a Federally-licensed firearms
19 dealer in this jurisdiction, and that that statement was
20 intended to deceive Vienna Arsenal with respect to a
21 material fact that's necessary to make the sale lawful; do
22 you understand all that?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: All right. And it says here in
25 furtherance of the conspiracy that you, along with the

1 co-conspirators, arranged to go to the Vienna Arsenal to
2 purchase the firearm for Derri who did not live in Virginia
3 and was prohibited from purchasing or possessing a firearm
4 due to having prior felony convictions; is that correct?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Now, did you know Derri before all
7 this happened?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Was he your friend?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: How long had you known him?

12 THE DEFENDANT: Maybe like a year and a half,
13 two years.

14 THE COURT: All right. And how did this all come
15 about? How was it that you decided to get involved with
16 this?

17 THE DEFENDANT: I purchased drugs from him, Your
18 Honor. That's how I knew him.

19 THE COURT: What kind of drugs were you buying
20 from him?

21 THE DEFENDANT: Percocets. They were like fake
22 Percocets. Pretty much fentanyl.

23 THE COURT: All right. And how did it come about
24 that he asked you to help him get a gun?

25 THE DEFENDANT: Basically to get more Percocets

1 for myself.

2 THE COURT: So, in other words, he said if you
3 want to get more Percocets, you've got to help me get a gun?
4 What happened?

5 THE DEFENDANT: Yeah. He offered me more to do it
6 for him, yes, ma'am.

7 THE COURT: All right. And then it says that you
8 and Agee -- what's your relationship with Ms. Agee?

9 THE DEFENDANT: That's my son's mother.

10 THE COURT: All right. Were you living together
11 at the time?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: All right. It says in paragraph 2
14 that you and she traveled together to Vienna Arsenal on
15 March 15, 2021.

16 Who chose Vienna Arsenal?

17 THE DEFENDANT: I did. I found it online.

18 THE COURT: You just found it online?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: All right. And you went there, and
21 then you and she went into the store, the Arsenal together;
22 is that correct?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Now, did you know what type of gun you
25 were supposed to get?

1 THE DEFENDANT: No, not at the time.

2 THE COURT: At some point did you?

3 THE DEFENDANT: I knew we were looking for a
4 Glock. I just -- I didn't know which ones they had at the
5 time.

6 THE COURT: All right. Did Derri have a
7 particular type of gun that he wanted?

8 THE DEFENDANT: A Glock 30.

9 THE COURT: And he had told you that?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: All right. And did you know at the
12 time that it was illegal for him to purchase a firearm?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And how did you know that?

15 THE DEFENDANT: I knew that he was a felon, Your
16 Honor.

17 THE COURT: He had a felony conviction?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: All right.

20 THE DEFENDANT: And I knew he lived in D.C.

21 THE COURT: All right. And so did you also know
22 that you have to fill out a form with the firearms dealer to
23 get --

24 THE DEFENDANT: I knew there was a background
25 check. I wasn't sure about the form.

1 THE COURT: All right. Now, it's my
2 understanding -- you didn't fill out the form; did you?

3 THE DEFENDANT: No, ma'am.

4 THE COURT: Ms. Agee did?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Why didn't you fill it out?

7 THE DEFENDANT: Because I don't have any felonies,
8 but I have a lot of misdemeanors, so I thought it would be
9 harder for me to get a gun.

10 THE COURT: All right. So you asked her to do it?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: All right. And it goes on here to
13 talk about how that was done.

14 Do you agree that Derri sent you \$100 in cash?

15 THE DEFENDANT: On Cash App, yes, he did, ma'am.

16 THE COURT: All right. So he didn't pay you in
17 drugs; he paid you in cash?

18 THE DEFENDANT: That was part of the -- because
19 while we were there, I bought drugs from him while we were
20 in the parking lot waiting for her. So that was part of
21 that. I never got paid for the gun because we never got it
22 to him.

23 THE COURT: All right. Do you understand that if
24 the Court accepts your guilty plea today, or pleas today,
25 there will be no further trial of the issues and you'll be

1 found guilty of both charges?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Do you claim in any respect that
4 you're innocent of the conspiracy count?

5 THE DEFENDANT: No.

6 THE COURT: How then do you plead?

7 THE DEFENDANT: Guilty.

8 THE COURT: Do you claim in any respect that
9 you're innocent of Count 2, which is aiding and abetting and
10 making a false statement?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: How then do you plead to that charge?

13 THE DEFENDANT: Guilty.

14 THE COURT: All right. Mr. Cooper, have you had
15 enough time to go over both pleas with your client?

16 MR. COOPER: Yes, Your Honor.

17 THE COURT: Do both fully accord with your
18 understanding of the facts and circumstances?

19 MR. COOPER: Yes, Your Honor.

20 THE COURT: In your opinion, have both of those
21 guilty pleas been made in a voluntary and knowing fashion by
22 your client?

23 MR. COOPER: Yes, Your Honor.

24 THE COURT: Are you aware of any pressure that may
25 have been brought upon your client to proceed this way

1 rather than with the plea?

2 MR. COOPER: No.

3 THE COURT: I mean, because, you know, the offer
4 that the Government made exposed the defendant to only five
5 years. He was only pleading to the conspiracy count, as I
6 recall. With this plea, of course, he's exposing himself to
7 twice the amount of time.

8 MR. COOPER: There was a particular issue, Your
9 Honor, with what the Government wanted him to do, and my
10 client just could not, so he decided to go forward with just
11 pleading to the indictment.

12 THE COURT: All right. Mr. Richards, the Court is
13 satisfied that you've entered your guilty pleas with the
14 full advice of competent counsel, that you've entered both
15 pleas in a knowing and voluntary fashion, and that the
16 statement of facts and your admission in court today is more
17 than enough evidence upon which to find you guilty of both
18 felony counts. So the Court accepts your guilty pleas,
19 which I do find were fully, knowingly and voluntarily made,
20 although perhaps not as wisely as they should have been, and
21 I will find you guilty of both counts.

22 I do want to advise you that you still have a
23 right at any point to decide to cooperate with the
24 Government, and if you do, that may assist you with your
25 sentence; do you understand that?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: All right. We need to set this case
3 for sentencing.

4 MR. COOPER: Your Honor, in determining a
5 sentencing date, I am out of the area the end of July and
6 most of August, and then on September 4th I start a six- to
7 eight-week co-defendant matter in D.C. Superior Court.

8 I know that that judge has Fridays off. If this
9 court can possibly set sentencing for Mr. Derri -- pardon
10 me, Mr. Richards towards the end of September, maybe
11 September 23rd, which is a Friday.

12 THE COURT: So you're out of the country for the
13 whole month of August?

14 MR. COOPER: We are out of this area from
15 July 28th, we come back for a day, and then we're out of the
16 country. It's our first time leaving anywhere since COVID.

17 THE COURT: All right. So July 28th is a
18 Thursday. We could do this it's a little -- oh, I can't. I
19 really don't want to push it that far down.

20 MR. COOPER: Your Honor, could we do it --
21 actually, we're leaving on the 28th, I apologize. If we
22 could do it the 26th or the 27th?

23 THE COURT: Yeah. I -- the 27th is a possibility.
24 Let me just think.

25 MS. SMALKY: Your Honor --

1 MR. COOPER: Or that Monday as well, the 25th.

2 THE COURT: That's not available on my calendar.

3 MS. SMALKY: Your Honor, I expect to be -- I'll be
4 out of town that week. Is it possible to do it the prior
5 week?

6 THE COURT: That's cutting probation pretty short.

7 MS. SMALKY: If not, I do have co-counsel who may
8 be able to --

9 THE COURT: Well, we could do it on Friday,
10 July 22nd.

11 Does that work for you, Mr. Cooper?

12 MR. COOPER: Your Honor, I have a trial that's
13 going to be on the 21st. It should only be a day. I can
14 move two matters on the 22nd to the afternoon probably.

15 What time would the Court want to do this?

16 THE COURT: 9:00.

17 MR. COOPER: That should be fine, Your Honor.

18 THE COURT: All right. Let's do that, because I
19 really don't want to push this off into September.

20 All right. So that's going to be Friday,
21 July 22nd at 9:00 for sentencing. I am going to assume,
22 Mr. Richards, that you're getting credit for this time --
23 you're not on State time right now -- against your final
24 sentence. You will be visited in your cell by a Federal
25 probation officer. Your full cooperation with the officer

1 is to your advantage; do you understand that?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: And as I said, you still have, and I'm
4 sure Mr. Cooper will discuss this with you, opportunities to
5 assist yourself with any cooperation. That does certainly
6 work to your favor with sentencing; do you understand that?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: All right. Anything further we need
9 to address with this case?

10 MR. COOPER: Not from the defense, Your Honor.

11 Thank you.

12 THE COURT: How about from the Government?

13 MS. SMALKY: Your Honor, just all the deadlines
14 associated with the trial date be canceled by the Court.

15 THE COURT: For this defendant, of course.

16 MS. SMALKY: For this defendant only. Yes.

17 THE COURT: Mr. Derri is still scheduled.

18 Although you need to let us -- yeah. All right. That's
19 fine.

20 If there's nothing further, then we'll recess
21 court for the day.

22 (Proceedings adjourned at 10:01 a.m.)

23 -----

24 I certify that the foregoing is a true and accurate
25 transcription of my stenographic notes.

Stephanie Austin

Stephanie M. Austin, RPR, CRR